



January 25, 2008

HOUSE BILL No. 1196

DIGEST OF HB 1196 (Updated January 23, 2008 7:08 pm - DI 75)

Citations Affected: IC 3-5; IC 3-7; IC 3-10; IC 3-11; IC 3-11.5; IC 3-11.7; IC 3-12; IC 4-8.1; IC 5-10.2; IC 20-23.

Synopsis: Various election law matters. Makes the following changes in election law: (1) Provides that an identification document issued by the Department of Defense, a branch of the uniformed services, the Merchant Marine, or the Indiana National Guard that has an indefinite expiration date, an identification issued by an approved institution of higher learning, or a Medicare card is an acceptable proof of identification to vote. (2) Provides that an individual confined to a long term care facility may not be challenged solely on the basis that the address on the individual's application for an absentee ballot differs from the address shown on the individual's voter registration record. (3) Provides that certain individuals under the supervision of the criminal justice system may not be employed by a county board of voter registration. (4) Provides that a person who is subject to lawful detention but has not been convicted of a crime is eligible to register and vote until the person has been convicted of a crime and imprisoned following conviction. (5) Provides that poll clerks and assistant poll clerks may ask a voter to show proof of identification. (6) Provides that a voter who executes an affidavit at the polls and is indigent or has a religious objection to being photographed is not required to present proof of identification. (7) Permits a voter who is qualified to vote in person to vote by absentee ballot. Removes all other qualifications for a voter to vote by absentee ballot except for a voter with disabilities who is unable to make a voting mark on the ballot or sign the absentee
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Effective: Upon passage; July 1, 2008.

Pierce, Richardson

January 10, 2008, read first time and referred to Committee on Elections and Apportionment.
January 24, 2008, amended, reported — Do Pass.

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ballot secrecy envelope. (Such a disabled voter is currently required to vote before an absentee voter board.) (8) Provides that when a voter votes as an absentee voter, the voter's signature on the absentee ballot affidavit shall be compared with the signature on the voter's voter registration record. (9) Permits all absentee ballot envelopes and related voter applications that will be sent to the same precinct to be enclosed in the same carrier envelope. (10) Provides for the counting of an absentee ballot received by the county election board before the close of the polls on election day if the ballot is not otherwise successfully challenged. (11) Requires the secretary of state to publish an analysis of provisional voting in Indiana for each year in which a general or a municipal election is held. (12) Requires the counting of a ballot that has been marked and cast by a voter in compliance with election law, but may otherwise not be counted solely as the result of the act or failure to act of an election officer unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is presented. (13) Makes the beginning date of absentee voting in the clerk's office or a satellite office one day later than under current law. (14) Requires a rejected absentee ballot to be treated as a provisional ballot. Requires the county election board to send a notice to a voter whose absentee ballot has been rejected providing certain information. Requires the county election board to meet before noon ten days after an election to provide provisional voters an opportunity to make a presentation in support of the validity of the provisional ballot and to determine which provisional ballots shall be counted. Makes certain procedural changes in processing provisional ballots. (15) Permits a county election board to inspect the register or other recording device on an electronic voting system without obtaining the authority of the state recount commission. (16) Provides that an individual elected treasurer of state takes office January 1 following the individual's election. Provides that the individual elected treasurer of state at the 2006 election vests as a member of PERF if the individual is reelected as treasurer of state at the 2010 election and serves in office until January 1, 2015. Establishes 65 years of age with at least eight years of creditable service as the normal retirement age for a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana. (17) Provides for the initiation of the change of a school corporation's organization plan if 10% of the active voters in the school corporation sign a petition for the change. (Under current law, 20% of the voters in a school corporation must support a petition for a change in the school corporation's organization plan.) (18) Repeals the following statutes: a statute providing that an absentee ballot may not be counted if the ballot does not contain initials of certain election officials; a statute relating to opening absentee ballot envelopes; a statute that requires a provisional ballot to be rejected if it does not contain certain initials; and a statute imposing criminal penalties for the inspection of a voting system without the permission of the recount commission.

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January 25, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1196

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-5-2-40.5, AS ADDED BY P.L.109-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 40.5. **(a) Except as provided in subsections**
4 **(b) and (c),** "proof of identification" refers to a document that satisfies
5 all the following:

6 (1) The document shows the name of the individual to whom the
7 document was issued, and the name conforms to the name in the
8 individual's voter registration record.

9 (2) The document shows a photograph of the individual to whom
10 the document was issued.

11 (3) The document includes an expiration date, and the document:
12 (A) is not expired; or
13 (B) expired after the date of the most recent general election.

14 (4) The document was issued by **any of the following:**

15 **(A)** The United States. ~~or~~

16 **(B)** The state of Indiana.

17 **(C)** An approved postsecondary educational institution (as

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defined in IC 21-7-13-6(a)).

(b) Notwithstanding subsection (a)(3), a document issued by the United States Department of Defense, a branch of the uniformed services, the Merchant Marine, or the Indiana National Guard that:

(1) otherwise complies with the requirements of subsection (a); and

(2) has no expiration date or states that the document has an indefinite expiration date;

is sufficient proof of identification for purposes of this title.

(c) Notwithstanding subsection (a), a document issued to an individual to identify the individual as a participant in the Medicare program established under Title XVIII of the federal Social Security Act (42 U.S.C. 1395 et seq.) is sufficient proof of identification for purposes of this title.

SECTION 2. IC 3-5-2-40.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 40.6. "Provisional ballot" refers to a ballot cast in accordance with the provisions of IC 3-11.7. **The term includes an absentee ballot required to be treated as a provisional ballot under this title.**

SECTION 3. IC 3-5-4.5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) **This section applies to an absentee ballot cast by an individual confined in a long term care facility.**

(b) **A person may not challenge the right of an individual to vote at an election by absentee ballot solely on the basis that the address on the individual's application for an absentee ballot differs from the address shown on the individual's voter registration record.**

SECTION 4. IC 3-7-12-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) **Subject to subsection (c), a board of registration may employ all necessary assistants.**

(b) **The number of employees shall be divided equally between the major political parties of the county.**

(c) **A person who is:**

(1) **on probation;**

(2) **on parole;**

(3) **subject to home detention under IC 35-38-2.5;**

(4) **placed in a community corrections program under IC 35-38-2.6;**

(5) **in a community transition program under IC 11-10-11.5;**

(6) **participating in a postconviction forensic diversion**

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1 program under IC 11-12-3.7;
 2 (7) being supervised by a reentry court;
 3 (8) serving a sentence in a minimum security assignment
 4 under IC 35-38-3-6; or
 5 (9) serving an intermittent sentence;
 6 may not be an employee of, or otherwise perform work for, a
 7 board of registration.

8 SECTION 5. IC 3-7-13-4 IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A person who is:

10 (1) convicted of a crime; and
 11 (2) imprisoned following conviction;
 12 is deprived of the right of suffrage by the general assembly pursuant to
 13 Article 2, Section 8 of the Constitution of the State of Indiana.

14 (b) A person described in subsection (a) is ineligible to register
 15 under this article during the period that the person is:

16 (1) imprisoned; or
 17 (2) otherwise subject to lawful detention.

18 (c) **A person who is subject to lawful detention but has not been**
 19 **convicted of a crime is eligible to:**

20 (1) register under this article; and
 21 (2) vote;

22 **until the person has been convicted of a crime and imprisoned**
 23 **following conviction.**

24 SECTION 6. IC 3-10-1-7.2, AS AMENDED BY P.L.164-2006,
 25 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 UPON PASSAGE]: Sec. 7.2. (a) Except as provided in subsection (e),
 27 a voter who desires to vote an official ballot at a primary election shall
 28 provide proof of identification.

29 (b) Except as provided in subsection (e), before the voter proceeds
 30 to vote in a primary election, a ~~member of the~~ precinct election board
 31 **officer** shall ask the voter to provide proof of identification. The voter
 32 must produce the proof of identification before being permitted to sign
 33 the poll list.

34 (c) If:
 35 (1) the voter is unable or declines to present the proof of
 36 identification; or
 37 (2) a member of the precinct election board determines that the
 38 proof of identification presented by the voter does not qualify as
 39 proof of identification under IC 3-5-2-40.5;
 40 a member of the precinct election board shall challenge the voter as
 41 prescribed by IC 3-11-8.

42 (d) If the voter executes a challenged voter's affidavit under section

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9 of this chapter or IC 3-11-8-22.1, the voter may:

- (1) sign the poll list; and
- (2) receive a provisional ballot.

(e) **A voter described by either of the following is not required to provide proof of identification before voting in a primary election:**

(1) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides. ~~is not required to provide proof of identification before voting in a primary election.~~

(2) **A voter who executes an affidavit, in the form prescribed by the commission, affirming under the penalties of perjury that the voter satisfies either of the following:**

(A) **The voter is:**

(i) **indigent; and**

(ii) **unable to obtain proof of identification without the payment of a fee.**

(B) **The voter has a religious objection to being photographed.**

SECTION 7. IC 3-11-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A voter who is otherwise qualified to vote in person is entitled to vote by absentee ballot: ~~Except~~

(1) **by mail;**

(2) **before an absentee voter board** ~~as otherwise provided in this article; a voter voting by absentee ballot must vote~~

(3) **in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2); or**

(4) **at a satellite office established under IC 3-11-10-26.3.**

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in ~~section~~ **sections 12 and 13** of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether

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the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 8. IC 3-11-4-2, AS AMENDED BY P.L.103-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who wants to vote by absentee ballot must apply to the county election board for an official absentee ballot. Except as provided in subsection (b), the voter must sign the absentee ballot application.

(b) If a voter with disabilities is unable to sign the absentee ballot application and the voter has not designated an individual to serve as attorney in fact for the voter, the county election board may designate an individual to sign the application on behalf of the voter. If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

(c) A person may provide an individual with an application for an absentee ballot with the following information already printed or otherwise set forth on the application when provided to the individual:

- (1) The name of the individual.
- (2) The voter registration address of the individual.
- (3) The mailing address of the individual.
- (4) The date of birth of the individual.
- (5) The voter identification number of the individual.

(d) A person may not provide an individual with an application for an absentee ballot with the following information already printed or otherwise set forth on the application when provided to the individual:

- (1) The address to which the absentee ballot would be mailed, if different from the voter registration address of the individual.
- (2) In a primary election, the major political party ballot requested by the individual.
- (3) In a primary or general election, the types of absentee ballots requested by the individual.
- ~~(4) The reason why the individual is entitled to vote an absentee ballot:~~

~~(A) by mail; or~~

~~(B) before an absentee voter board (other than an absentee voter board located in the office of the circuit court clerk or a satellite office);~~

~~in accordance with IC 3-11-4-18; IC 3-11-10-24; or IC 3-11-10-25.~~

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(e) If the county election board determines that an absentee ballot application does not comply with subsection (d), the board shall deny the application under section 17.5 of this chapter.

(f) A person who assists an individual in completing any information described in subsection (d) on an absentee ballot application shall state under the penalties for perjury the following information on the application:

(1) The full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person providing the assistance.

(2) The date this assistance was provided.

(3) That the person providing the assistance has complied with Indiana laws governing the submission of absentee ballot applications.

(4) That the person has no knowledge or reason to believe that the individual submitting the application:

(A) is ineligible to vote or to cast an absentee ballot; or

(B) did not properly complete and sign the application.

(g) This subsection does not apply to an employee of the United States Postal Service or a bonded courier company acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company. A person who receives a completed absentee ballot application from the individual who has applied for the absentee ballot shall file the application with the appropriate county election board not later than:

(1) noon seven (7) days after the person receives the application; or

(2) the deadline set by Indiana law for filing the application with the board;

whichever occurs first.

(h) This subsection does not apply to an employee of the United States Postal Service or a bonded courier company acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company. A person filing an absentee ballot application, other than the person's own absentee ballot application, must sign an affidavit at the time of filing the application. The affidavit must be in a form prescribed by the commission. The form must include the following:

(1) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person submitting the application.

(2) A statement that the person filing the affidavit has complied

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with Indiana laws governing the submission of absentee ballot applications.

(3) A statement that the person has no knowledge or reason to believe that the individual whose application is to be filed:

(A) is ineligible to vote or to cast an absentee ballot; or

(B) did not properly complete and sign the application.

(4) A statement that the person is executing the affidavit under the penalties of perjury.

(5) A statement setting forth the penalties for perjury.

(i) The county election board shall record the date and time of the filing of the affidavit.

SECTION 9. IC 3-11-4-18, AS AMENDED BY P.L.164-2006, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) ~~If a voter satisfies any of the qualifications described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail;~~ The county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

(b) If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot. The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) Except as provided in section 18.5 of this chapter, the ballot shall be mailed:

(1) on the day of the receipt of the voter's application; or

(2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) Except as provided in section 18.5 of this chapter, the ballot described in subsection (d):

(1) must be mailed:

(A) on the day of the receipt of the voter's application; or

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(B) not more than five (5) days after the latest date for delivery of the ballots under section 13(b) of this chapter applicable to that election;

whichever is later; and

(2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) As required by 42 U.S.C. 15481, an election board shall establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple votes for a single office.

(g) As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 10. IC 3-11-8-25.1, AS AMENDED BY P.L.164-2006, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25.1. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in the election, a ~~member of the~~ precinct election ~~board officer~~ shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22.1 of this chapter, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

(e) A voter described by either of the following is not required to provide proof of identification before voting in an election:

(1) A voter who votes in person at a precinct polling place that is

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located at a state licensed care facility where the voter resides. ~~is not required to provide proof of identification before voting in an election.~~

(2) A voter who executes an affidavit, in the form prescribed by the commission, affirming under the penalties of perjury that the voter satisfies either of the following:

(A) The voter is:

(i) indigent; and

(ii) unable to obtain proof of identification without the payment of a fee.

(B) The voter has a religious objection to being photographed.

(f) After a voter has passed the challengers or has been sworn in, the voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

(1) The voter's name.

(2) Except as provided in subsection (k), the voter's current residence address.

(g) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) ask the voter to provide or update the voter's voter identification number;

(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

(h) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall ask the voter to provide proof of identification.

(i) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(j) If, in a precinct governed by subsection (g):

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1 (1) the poll clerk does not execute a challenger's affidavit; or
 2 (2) the voter executes a challenged voter's affidavit under section
 3 22.1 of this chapter or executed the affidavit before signing the
 4 poll list;
 5 the voter may then vote.

6 (k) Each line on a poll list sheet provided to take a voter's current
 7 address must include a box under the heading "Address Unchanged"
 8 so that a voter whose residence address shown on the poll list is the
 9 voter's current residence address may check the box instead of writing
 10 the voter's current residence address on the poll list.

11 SECTION 11. IC 3-11-10-4, AS AMENDED BY P.L.198-2005,
 12 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 UPON PASSAGE]: Sec. 4. (a) Upon receipt of an absentee ballot, a
 14 county election board (or the absentee voter board in the office of the
 15 circuit court clerk) shall immediately examine the signature of the
 16 absentee voter to determine its genuineness.

17 (b) This subsection does not apply to an absentee ballot cast by a
 18 voter permitted to transmit the voter's absentee ballots by fax or
 19 electronic mail under IC 3-11-4-6. The board shall compare the
 20 signature as it appears upon the envelope containing the absentee ballot
 21 with the signature of the voter as it appears upon the ~~application for the~~
 22 ~~absentee ballot: voter's affidavit of registration.~~ The board may also
 23 compare the signature on the ballot envelope with any other admittedly
 24 genuine signature of the voter.

25 (c) This subsection applies to an absentee ballot cast by a voter
 26 permitted to transmit the voter's absentee ballots by fax or electronic
 27 mail under IC 3-11-4-6. The board shall compare the signature as it
 28 appears on the affidavit transmitted with the voter's absentee ballot to
 29 the voter's signature as it appears on the ~~application for the absentee~~
 30 ~~ballot: voter's affidavit of registration.~~ The board may also compare
 31 the signature on the affidavit with any other admittedly genuine
 32 signature of the voter.

33 (d) If a member of the absentee voter board questions whether a
 34 signature on a ballot envelope or transmitted affidavit is genuine, the
 35 matter shall be referred to the county election board for consideration
 36 under section 5 of this chapter.

37 SECTION 12. IC 3-11-10-8 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If a county
 39 election board (or the absentee voter board in the office of the circuit
 40 court clerk) unanimously finds that the signature on a ballot envelope
 41 or transmitted affidavit is genuine, the board shall enclose immediately
 42 the accepted and unopened ballot envelope together with the voter's

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1 application for the absentee ballot in a ~~large or~~ carrier envelope. **The**
 2 **board may enclose in the same carrier envelope all absentee ballot**
 3 **envelopes and voter applications to be transmitted to the same**
 4 **precinct.**

5 (b) The envelope shall be securely sealed and endorsed with the
 6 ~~name and~~ official title of the circuit court clerk and the following
 7 words: "This envelope contains an absentee ballot and must be opened
 8 only at the polls on election day while the polls are open."

9 SECTION 13. IC 3-11-10-12, AS AMENDED BY P.L.164-2006,
 10 SECTION 106, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Each county election
 12 board shall have all absentee ballots delivered to the precinct election
 13 boards at their respective polls on election day.

14 (b) The absentee ballots shall be delivered during the hours that the
 15 polls are open. ~~and in sufficient time to enable~~ The precinct election
 16 ~~boards to board shall vote the~~ ballots **received** during the time the
 17 polls are open. **Any ballots received by the precinct election board**
 18 **after the polls are closed shall be returned to the county election**
 19 **board for counting under section 14 of this chapter.**

20 (c) Along with the absentee ballots delivered to the precinct election
 21 boards under subsection (a), each county election board shall provide
 22 a list certified by the circuit court clerk. This list must state the name
 23 of each voter subject to IC 3-7-33-4.5 who:

24 (1) filed the documentation required by IC 3-7-33-4.5 with the
 25 county voter registration office after the printing of the certified
 26 list under IC 3-7-29 or the poll list under IC 3-11-3; and

27 (2) as a result, is entitled to have the voter's absentee ballot
 28 counted if the ballot otherwise complies with this title.

29 (d) If the county election board is notified not later than 3 p.m. on
 30 election day by the county voter registration office that a voter subject
 31 to IC 3-7-33-4.5 and not identified in the list certified under subsection
 32 (c) has filed documentation with the office that complies with
 33 IC 3-7-33-4.5, the county election board shall transmit a supplemental
 34 certified list to the appropriate precinct election board. If the board
 35 determines that the supplemental list may not be received before the
 36 closing of the polls, the board shall:

37 (1) attempt to contact the precinct election board to inform the
 38 board regarding the content of the supplemental list; and

39 (2) file a copy of the supplemental list for that precinct as part of
 40 the permanent records of the board.

41 (e) This subsection applies to a special write-in absentee ballot
 42 described in:

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1 (1) 42 U.S.C. 1973ff for federal offices; and

2 (2) IC 3-11-4-12(a) for state offices.

3 If the county election board receives both a special write-in absentee
4 ballot and the regular absentee ballot described by IC 3-11-4-12 from
5 the same voter, the county election board shall reject the special
6 write-in ballot and deliver only the regular absentee ballot to the
7 precinct election board.

8 SECTION 14. IC 3-11-10-14, AS AMENDED BY P.L.198-2005,
9 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 UPON PASSAGE]: Sec. 14. (a) Subject to section 11 of this chapter,
11 absentee ballots received by mail (or by fax or electronic mail under
12 IC 3-11-4-6) after the county election board has started the final
13 delivery of the ballots to the precincts on election day **shall be**
14 **delivered to the county election board for counting.**

15 (b) **An absentee ballot delivered to the county election board**
16 **under subsection (a) shall be counted by the county election board**
17 **if the ballot is not otherwise successfully challenged under this title.**

18 (c) **The election returns from the precinct shall be adjusted to**
19 **reflect the votes on an absentee ballot required to be counted under**
20 **subsection (b).**

21 (d) **Except as provided in subsection (e), absentee ballots**
22 **received by the county election board after the close of the polls on**
23 **election day are considered as arriving too late and need may not be**
24 **delivered to the polls: counted.**

25 (e) **Absentee ballots received by the precinct election board as**
26 **described in section 12(b) of this chapter after the close of the polls**
27 **shall be returned to the county election board and be counted as**
28 **provided in this section.**

29 SECTION 15. IC 3-11-10-15 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. At any time
31 between the opening and closing of the polls on election day, the
32 inspector, in the presence of the precinct election board, shall do all of
33 the following:

34 (1) Open the outer or carrier envelope containing an absentee
35 ballot envelope and application.

36 (2) Announce the absentee voter's name.

37 (3) Compare the signature upon the ~~application~~ **voter's affidavit**
38 **of registration** with the signature upon the affidavit on the ballot
39 envelope or transmitted affidavit attached to the ballot envelope.

40 SECTION 16. IC 3-11-10-17, AS AMENDED BY P.L.198-2005,
41 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2008]: Sec. 17. (a) If the inspector finds under section 15 of

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1 this chapter that any of the following applies, **the inspector shall**
 2 **direct that the absentee ballot may not be accepted or counted;**
 3 **processed as a provisional ballot under IC 3-11.7:**

4 (1) The affidavit is insufficient or the ballot has not been endorsed
 5 with the initials of:

6 (A) the two (2) members of the absentee voter board in the
 7 office of the circuit court clerk under IC 3-11-4-19 or section
 8 27 of this chapter;

9 (B) the two (2) members of the absentee voter board visiting
 10 the voter under section 25(b) of the chapter; or

11 (C) the two (2) appointed members of the county election
 12 board or their designated representatives under IC 3-11-4-19.

13 (2) A copy of the voter's signature has been furnished to the
 14 precinct election board and that the signatures do not correspond
 15 or there is no signature.

16 (3) The absentee voter is not a qualified voter in the precinct.

17 (4) The absentee voter has voted in person at the election.

18 (5) The absentee voter has not registered.

19 (6) The ballot is open or has been opened and resealed. This
 20 subdivision does not permit an absentee ballot transmitted by fax
 21 or electronic mail under IC 3-11-4-6 to be rejected because the
 22 ballot was sealed in the absentee ballot envelope by the individual
 23 designated by the circuit court to receive absentee ballots
 24 transmitted by fax or electronic mail.

25 (7) The ballot envelope contains more than one (1) ballot of any
 26 kind for the same office or public question.

27 (8) In case of a primary election, if the absentee voter has not
 28 previously voted, the voter failed to execute the proper
 29 declaration relative to age and qualifications and the political
 30 party with which the voter intends to affiliate.

31 (9) The ballot has been challenged and not supported.

32 (b) Subsection (c) applies whenever a voter with a disability is
 33 unable to make a signature:

34 (1) on an absentee ballot application that corresponds to the
 35 voter's signature in the records of the county voter registration
 36 office; or

37 (2) on an absentee ballot secrecy envelope that corresponds with
 38 the voter's signature:

39 (A) in the records of the county voter registration office; or

40 (B) on the absentee ballot application.

41 (c) The voter may request that the voter's signature or mark be
 42 attested to by:

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- (1) the absentee voter board under section 25(b) of this chapter;
- (2) a member of the voter's household; or
- (3) an individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for an inspector to determine that a signature or mark complies with subsection (a)(2).

SECTION 17. IC 3-11-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. ~~Each~~ **(a) An absentee** ballot not accepted or counted for any of the reasons prescribed by section 17 of this chapter shall, without being unfolded to disclose how it is marked, be **replaced in the absentee ballot envelope in which the ballot was contained. The absentee ballot envelope shall be securely sealed and** endorsed with the words: "Rejected (giving the reason or reasons ~~therefor~~) **for the rejection**".

(b) All rejected absentee ballots shall be enclosed and securely sealed in an envelope on which the inspector shall write the words: **"Defective" "Absentee ballots to be processed as provisional ballots"**. The inspector shall also identify the precinct and the date of the election on the envelope containing the rejected ballots. ~~The defective absentee ballots shall be returned to the same officer and in the same manner as prescribed by this title for the return and preservation of official ballots cast and uncast at the election.~~

SECTION 18. IC 3-11-10-24, AS AMENDED BY P.L.103-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) Except as provided in subsection (b), a voter who satisfies any of the following is entitled to vote by mail.

(1) The voter has a specific, reasonable expectation of being absent from the county on election day during the entire twelve (12) hours that the polls are open.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8; IC 3-6-9; or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence; to a health care facility; or to a hospital because of an illness or injury during the entire twelve (12) hours that the polls are open.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

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(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury during the entire twelve (12) hours that the polls are open.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(9) The voter is prevented from voting due to observance of a religious discipline or religious holiday during the entire twelve (12) hours that the polls are open.

(10) The voter is an address confidentiality program participant (as defined in IC 5-26.5-1-6).

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose.

The voter shall:

(1) deposit the sealed envelope in the United States mail for delivery to the county election board; or

(2) authorize a member of the voter's household or the individual designated as the voter's attorney in fact to:

(A) deposit the sealed envelope in the United States mail; or

(B) deliver the sealed envelope in person to the county election board.

(d) If a member of the voter's household or the voter's attorney in fact delivers the sealed envelope containing a voter's absentee ballot to the county election board, the individual delivering the ballot shall complete an affidavit in a form prescribed by the commission. The affidavit must contain the following information:

(1) The name and residence address of the voter whose absentee ballot is being delivered.

(2) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual delivering the absentee ballot.

(3) A statement indicating whether the individual delivering the absentee ballot is a member of the voter's household or is the

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attorney in fact for the voter. If the individual is the attorney in fact for the voter, the individual must attach a copy of the power of attorney for the voter, unless a copy of this document has already been filed with the county election board.

(4) The date and location at which the absentee ballot was delivered by the voter to the individual delivering the ballot to the county election board.

(5) A statement that the individual delivering the absentee ballot has complied with Indiana laws governing absentee ballots.

(6) A statement that the individual delivering the absentee ballot is executing the affidavit under the penalties of perjury.

(7) A statement setting forth the penalties for perjury.

(e) The county election board shall record the date and time that the affidavit under subsection (d) was filed with the board.

(f) After a voter has mailed or delivered an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 19. IC 3-11-10-25, AS AMENDED BY P.L.164-2006, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) A voter who votes by absentee ballot because ~~of the voter:~~ **the voter:**

(1) **has an** illness or injury; ~~or~~

(2) **is** caring for a confined person at a private residence; ~~or~~

(3) **is subject to lawful detention but has not been convicted of a crime;**

and who is within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

(1) during the regular office hours of the circuit court clerk;

(2) at a time agreed to by the board and the voter;

(3) on any of the twelve (12) days immediately before election day; and

(4) only once before an election, unless:

(A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or

(B) the board, in its discretion, decides to make an additional

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1 visit.

2 (c) This subsection applies to a voter confined due to illness or
3 injury. An absentee voter board may not be denied access to the voter's
4 place of confinement if the board is present at the place of confinement
5 at a time:

- 6 (1) agreed to by the board and the voter; and
7 (2) during the regular office hours of the circuit court clerk. A
8 person who knowingly violates this subsection commits
9 obstruction or interference with an election officer in the
10 discharge of the officer's duty, a violation of IC 3-14-3-4.

11 (d) The county election board, by unanimous vote of the board's
12 entire membership, may authorize an absentee voter board to visit a
13 voter who is confined due to illness or injury and will be outside the
14 county on election day in accordance with the procedures set forth in
15 subsection (b).

16 (e) As provided by 42 U.S.C. 15481, a voter casting an absentee
17 ballot under this section must be:

- 18 (1) permitted to verify in a private and independent manner the
19 votes selected by the voter before the ballot is cast and counted;
20 (2) provided with the opportunity to change the ballot or correct
21 any error in a private and independent manner before the ballot is
22 cast and counted, including the opportunity to receive a
23 replacement ballot if the voter is otherwise unable to change or
24 correct the ballot; and
25 (3) notified before the ballot is cast regarding the effect of casting
26 multiple votes for the office and provided an opportunity to
27 correct the ballot before the ballot is cast and counted.

28 (f) As provided by 42 U.S.C. 15481, when an absentee ballot is
29 provided under this section, the board must also provide the voter with:

- 30 (1) information concerning the effect of casting multiple votes for
31 an office; and
32 (2) instructions on how to correct the ballot before the ballot is
33 cast and counted, including the issuance of replacement ballots.

34 (g) This subsection applies to a voter who applies to vote an
35 absentee ballot by mail. The county election board shall include a copy
36 of the Absentee Voter's Bill of Rights with any absentee ballot mailed
37 to the voter.

38 SECTION 20. IC 3-11-10-26, AS AMENDED BY P.L.164-2006,
39 SECTION 109, IS AMENDED TO READ AS FOLLOWS
40 [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) As an alternative to
41 voting by mail, a voter is entitled to cast an absentee ballot before an
42 absentee voter board:

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(1) in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2); or

(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must:

(1) sign an application on the form prescribed by the commission under IC 3-11-4-5.1; and

(2) provide proof of identification;

before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than ~~twenty-nine~~ **(29) twenty-eight (28)** days nor later than noon on the day before election day.

(d) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than ~~twenty-nine (29)~~ **twenty-eight (28)** days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(f) Notwithstanding subsection (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(g) As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting

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multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(i) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

the voter shall be permitted to cast an absentee ballot, and the voter's absentee ballot shall be treated as a provisional ballot.

(j) The county election board, by unanimous vote of the entire membership of the board, may adopt a resolution providing that absentee ballots be cast at satellite offices instead of in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2).

SECTION 21. IC 3-11-10-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 34. If ~~an envelope containing~~ an absentee ballot has been marked ~~"Rejected as defective"~~ **rejected under section 17 of this chapter** and the voter appears in person at the precinct before the polls close, the voter may vote as any other voter voting in person. **A notation shall be made on the absentee ballot envelope of the rejected absentee ballot that the voter appeared at the polls.**

SECTION 22. IC 3-11.5-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. To the extent that they are in conflict with this article, the following statutes do not apply to a county that has adopted a resolution described by section 1 of this chapter:

(1) IC 3-11-4-22.

(2) IC 3-11-10-1.5.

(3) IC 3-11-10-3.

(4) IC 3-11-10-5.

(5) IC 3-11-10-6.

(6) IC 3-11-10-7.

(7) IC 3-11-10-8.

(8) IC 3-11-10-9.

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- 1 (9) IC 3-11-10-11.
- 2 (10) IC 3-11-10-12.
- 3 (11) IC 3-11-10-13.
- 4 (12) IC 3-11-10-14.
- 5 (13) IC 3-11-10-15.
- 6 (14) IC 3-11-10-16.
- 7 (15) IC 3-11-10-17.
- 8 (16) IC 3-11-10-18.
- 9 (17) IC 3-11-10-20.
- 10 (18) IC 3-11-10-21.
- 11 (19) IC 3-11-10-22.
- 12 (20) IC 3-11-10-23.
- 13 (21) IC 3-11-10-31.
- 14 (22) IC 3-11-10-32.
- 15 (23) IC 3-11-10-33.
- 16 (24) IC 3-11-10-34.
- 17 ~~(25) IC 3-11-10-35.~~
- 18 ~~(26)~~ (25) IC 3-11-10-36.
- 19 ~~(27)~~ (26) IC 3-11-10-37.
- 20 ~~(28)~~ (27) IC 3-12-2.
- 21 ~~(29)~~ (28) IC 3-12-3-12.

22 SECTION 23. IC 3-11.5-4-10, AS AMENDED BY P.L.198-2005,
 23 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 UPON PASSAGE]: Sec. 10. Subject to section 7 of this chapter,
 25 absentee ballots received by mail (or by fax or electronic mail under
 26 IC 3-11-4-6) after ~~noon~~ **the close of the polls** on election day are
 27 considered as arriving too late and may not be counted.

28 SECTION 24. IC 3-11.5-4-11 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. At any time
 30 after the couriers return the certificate under section 9 of this chapter,
 31 absentee ballot counters appointed under section 22 of this chapter, in
 32 the presence of the county election board, shall, except for a ballot
 33 rejected under section 13 of this chapter:

- 34 (1) open the outer or carrier envelope containing an absentee
 35 ballot envelope and application;
- 36 (2) announce the absentee voter's name; and
- 37 (3) compare the signature upon the ~~application with the signature~~
 38 ~~upon the~~ affidavit on the ballot envelope or transmitted affidavit
 39 **with the signature on the voter's affidavit of registration.**

40 SECTION 25. IC 3-11.5-4-13, AS AMENDED BY P.L.198-2005,
 41 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2008]: Sec. 13. (a) If the absentee ballot counters find under



section 11 of this chapter that any of the following applies, the ballots shall be ~~rejected~~ **processed as provisional ballots under IC 3-11.7:**

(1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:

(A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;

(B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or

(C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.

(2) The signatures do not correspond or there is no signature.

(3) The absentee voter is not a qualified voter in the precinct.

(4) The absentee voter has voted in person at the election.

(5) The absentee voter has not registered.

(6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax or electronic mail under IC 3-11-4-6 to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax or electronic mail.

(7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot security envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by any of the following:

(1) The absentee voter board under section 22 of this chapter.

(2) A member of the voter's household.

(3) An individual serving as attorney in fact for the voter.

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(d) An attestation under subsection (c) provides an adequate basis for the absentee ballot counters to determine that a signature or mark complies with subsection (a)(2).

(e) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

(f) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 26. IC 3-11.5-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) ~~Each~~ **An absentee** ballot rejected for any of the reasons prescribed by section 13 of this chapter shall, without being unfolded to disclose how the ballot is marked, be **replaced in the absentee ballot envelope in which the ballot was contained. The absentee ballot envelope shall be securely sealed and** endorsed with the words: "Rejected (giving the reason or reasons for the rejection)".

(b) All rejected absentee ballots shall be enclosed and securely sealed in an envelope on which the absentee ballot counters shall write the words: ~~"Rejected"~~ **"Absentee ballots to be processed as provisional ballots"**. The absentee ballot counters shall also identify the precinct and the date of the election on the envelope containing the rejected ballots.

(c) ~~The rejected absentee ballots shall be returned to the same officer and in the same manner as prescribed by this title for the return and preservation of official ballots cast and uncast at the election.~~

SECTION 27. IC 3-11.5-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. If ~~an envelope containing~~ an absentee ballot has been ~~marked "Rejected"~~ **rejected under section 14 of this chapter** and the voter appears in person at the precinct before the polls close, the voter may vote as any other voter voting in person if the voter presents the precinct election board with the certificate issued under section 13(c) of this chapter. **A notation shall be made on the absentee ballot envelope of the rejected absentee ballot that the voter appeared at the polls.**

SECTION 28. IC 3-11.7-2-1, AS AMENDED BY P.L.164-2006, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) ~~As provided by 42 U.S.C. 15482,~~ This section applies to the following individuals:

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(1) An individual:

- (A) whose name does not appear on the registration list; and
- (B) who is challenged under IC 3-10-1 or IC 3-11-8 after the voter makes an oral or a written affirmation under IC 3-7-48-5 or IC 3-7-48-7 or after the voter produces a certificate of error under IC 3-7-48-1.

(2) An individual described by IC 3-10-1-10.5, IC 3-11-8-23.5, or IC 3-11-8-27.5 who is challenged as not eligible to vote.

(3) An individual who seeks to vote in an election as a result of a court order (or any other order) extending the time established for closing the polls under IC 3-11-8-8.

(4) An individual whose absentee ballot has been rejected under IC 3-11-10-17 or IC 3-11.5-4-13.

(b) As required by 42 U.S.C. 15483, a voter who has registered to vote but has not:

- (1) presented identification required under 42 U.S.C. 15483 to the poll clerk before voting in person under IC 3-11-8-25.1; or
- (2) filed a copy of the identification required under 42 U.S.C. 15483 to the county voter registration office before the voter's absentee ballot is cast;

is entitled to vote a provisional ballot under this article.

(c) A precinct election officer shall inform an individual described by subsection (a)(1) or (a)(2) that the individual may cast a provisional ballot if the individual:

- (1) is eligible to vote under IC 3-7-13-1;
- (2) submitted a voter registration application during the registration period described by IC 3-7-13-10 (or IC 3-7-36-11, if the voter registered under that section); and
- (3) executes an affidavit described in IC 3-10-1-9 or IC 3-11-8-23.

(d) A precinct election officer shall inform an individual described by subsection (a)(3) that the individual may cast a provisional ballot.

(e) An absentee ballot rejected under IC 3-11-10-17 or IC 3-11.5-4-13 shall be treated as a provisional ballot under this article. The county election board shall send a notice to the voter at the address indicated on the voter's absentee ballot application giving the following information:

- (1) That the voter's absentee ballot was rejected.**
- (2) The reasons for rejection of the voter's absentee ballot.**
- (3) That the voter's absentee ballot will be treated as a provisional ballot.**
- (4) That the county election board will have a meeting to determine whether provisional ballots shall be counted.**

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(5) The date, time, and place of the meeting described in subdivision (4).

(6) That the voter will be given an opportunity to support the validity of the absentee ballot.

(7) That the county election board may limit the voter's presentation. The county election board must grant a voter at least five (5) minutes to make a presentation.

SECTION 29. IC 3-11.7-5-1, AS AMENDED BY P.L.164-2006, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) Notwithstanding IC 3-5-4-1.5 and any legal holiday observed under IC 1-1-9, all provisional ballots must be counted by not later than noon ten (10) days following the election.

(c) The county election board shall meet before noon on the date described in subsection (b) to do the following:

(1) Provide voters who have cast provisional ballots an opportunity to make a presentation in support of the validity of the provisional ballot.

(2) Determine which provisional ballots shall be counted.

SECTION 30. IC 3-11.7-5-2, AS AMENDED BY P.L.103-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) ~~Except as provided in section 5 of this chapter,~~ If the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

(1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.

(2) The provisional voter is a qualified voter of the precinct and has provided proof of identification, if required, under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26.

(3) Based on all the information available to the county election board, including:

(A) information provided by the provisional voter;

(B) information contained in the county's voter registration records; and

(C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the

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board shall promptly make an inquiry to the agency regarding the alleged registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot **unless:**

(1) the voter appears at the meeting held under section 1 of this chapter; and

(2) the board determines, based on the voter's presentation, that the voter was validly registered.

If the board determines that the voter was not properly registered, the board shall endorse the ballot with the word "Rejected" and document on the ballot the inquiry and response, if any, by the agency.

(c) Except as provided in section 5 of this chapter, A provisional ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be counted if the county election board determines under this article that the voter filed the documentation required under IC 3-7-33-4.5 and 42 U.S.C. 15483 with the county voter registration office not later than the closing of the polls on election day.

SECTION 31. IC 3-11.7-5-2.5, AS ADDED BY P.L.103-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.5. (a) A voter who:

(1) was challenged under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26 as a result of the voter's inability or declination to provide proof of identification; and

(2) cast a provisional ballot;

may personally appear before the circuit court clerk or the at the county election board not later than the deadline specified by held under section 1 of this chapter for the county election board to determine whether to count a provisional ballot. The voter may also appear before the circuit court clerk before the county election board meeting to provide proof of identification and execute the affidavit as required under subsection (b).

(b) Except as provided in subsection (c), or (c); if the voter:

(1) provides proof of identification to the circuit court clerk or county election board; and

(2) executes an affidavit before the clerk or board, in the form prescribed by the commission, affirming under the penalties of perjury that the voter is the same individual who:

(A) personally appeared before the precinct election board; and

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(B) cast the provisional ballot on election day;
the county election board shall find that the voter's provisional ballot is valid and direct that the provisional ballot be opened under section 4 of this chapter and processed in accordance with this chapter.

(c) If the voter executes an affidavit before the circuit court clerk or county election board; in the form prescribed by the commission; affirming under the penalties of perjury that:

(1) the voter is the same individual who:

(A) personally appeared before the precinct election board;
and

(B) cast the provisional ballot on election day; and

(2) the voter:

(A) is:

(i) indigent; and

(ii) unable to obtain proof of identification without the payment of a fee; or

(B) has a religious objection to being photographed;

the county election board shall determine whether the voter has been challenged for any reason other than the voter's inability or declination to present proof of identification to the precinct election board:

(d) If the county election board determines that the voter described in subsection (c) has been challenged solely for the inability or declination of the voter to provide proof of identification, the county election board shall:

(1) find that the voter's provisional ballot is valid; and

(2) direct that the provisional ballot be:

(A) opened under section 4 of this chapter; and

(B) processed in accordance with this chapter.

(e) (c) If the county election board determines that a voter described in subsection (b) or (c) has been challenged for a cause other than the voter's inability or declination to provide proof of identification, the board shall:

(1) note on the envelope containing the provisional ballot that the voter has complied with the proof of identification requirement;
and

(2) proceed to determine the validity of the remaining challenges set forth in the challenge affidavit before ruling on the validity of the voter's provisional ballot.

(f) (d) If a voter described by subsection (a) fails by the deadline for counting provisional ballots referenced in subsection (a) described in section 1 of this chapter to:

(1) appear before the county election board or the circuit court

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1 clerk; and

2 (2) execute an affidavit in the manner prescribed by subsection

3 (b); ~~or (c);~~

4 the county election board shall find that the voter's provisional ballot
5 is invalid.

6 SECTION 32. IC 3-11.7-5-3, AS AMENDED BY P.L.103-2005,
7 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2008]: Sec. 3. (a) **This section applies** if the board determines
9 **any of the following:**

10 (1) That the affidavit executed by the provisional voter has not
11 been properly executed.

12 (2) That the provisional voter is not a qualified voter of the
13 precinct.

14 (3) That the **provisional** voter failed to provide proof of
15 identification when required under IC 3-10-1, IC 3-11-8, or
16 IC 3-11-10-26. ~~or~~

17 (4) That the provisional voter did not register to vote at a
18 registration agency under this article on a date within the
19 registration period.

20 (5) **That the provisional voter's absentee ballot is not entitled**
21 **to be counted under this title.**

22 (b) The board shall make the following findings:

23 (1) The provisional ballot is invalid.

24 (2) The provisional ballot may not be counted.

25 (3) The provisional ballot envelope containing the ballots cast by
26 the provisional voter may not be opened.

27 ~~(b)~~ (c) If the county election board determines that a provisional
28 ballot is invalid, a notation shall be made on the provisional ballot
29 envelope: "Provisional ballot determined invalid".

30 SECTION 33. IC 3-11.7-5-19 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. As soon as the
32 ballots have been counted, the counters shall do the following in the
33 presence of the county election board:

34 (1) Place in a strong paper envelope or bag the following:

35 (A) All provisional ballots, voted and spoiled.

36 (B) All provisional ballots

37 ~~(i) determined invalid under section 3 of this chapter. or~~

38 ~~(ii) rejected under section 5 of this chapter.~~

39 (C) All protested and uncounted provisional ballots.

40 (D) All provisional ballot envelopes.

41 (E) All executed affidavits relating to the provisional ballots.

42 (F) The tally papers.

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- (2) Securely seal the envelope or bag.
- (3) Have both counters initial the envelope or bag.
- (4) Plainly mark on the outside of the envelope or bag in ink the precinct in which the provisional ballots were cast.
- (5) Deliver the envelope or bag to the circuit court clerk.
- (6) Notify the circuit court clerk of the number of ballots placed in the envelope or bag.

SECTION 34. IC 3-11.7-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 7. Evaluation of Provisional Voting

Sec. 1. Not later than January 31 following each year in which a general or municipal election is held, the secretary of state shall publish an analysis of provisional voting in Indiana for that election year.

Sec. 2. The analysis required by section 1 of this chapter must contain the following information:

- (1) The number of provisional ballots cast by county.
- (2) The reasons that provisional ballots were cast. The analysis may group the reasons for casting provisional ballots by category.
- (3) The number of provisional ballots counted and the number of provisional ballots not counted, by category.
- (4) Measures of variance in casting of provisional ballots by county.
- (5) Length of time to check validity and count provisional ballots by county.
- (6) The variation in the use of provisional ballots among all counties.

Sec. 3. The analysis required by section 1 of this chapter must consider the following questions:

- (1) Whether the provisional ballot system distributes, collects, records, and counts provisional votes with acceptable accuracy.
- (2) Whether the provisional ballot system counts all votes cast by properly registered voters who have correctly completed all steps to cast a vote.
- (3) Whether the provisional ballot system is structured sufficiently to perform well when the number of votes cast for opposing candidates is close.
- (4) Whether the procedural requirements of the provisional ballot system permit a cost efficient, accurate, and timely

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operation.

(5) Whether the variation in the use of provisional ballots throughout Indiana is great enough to raise concern that the provisional ballot system is not administered uniformly across Indiana.

Sec. 4. The county election board of each county shall collect and send to the secretary of state any information about the use of provisional ballots in the county as required by the secretary of state.

SECTION 35. IC 3-12-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to votes cast by any method.

(b) ~~Except as provided in section 13 of this chapter,~~ A ballot that has been marked and cast by a voter in compliance with this title but may otherwise not be counted solely as the result of the act or failure to act of an election officer ~~may nevertheless~~ **shall** be counted in a proceeding under IC 3-12-6, IC 3-12-8, or IC 3-12-11 unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is presented. ~~by a party to the proceeding.~~

(c) The act or failure to act by an election officer is not by itself evidence of fraud, tampering, or misconduct affecting the integrity of the ballot.

SECTION 36. IC 3-12-4-18, AS AMENDED BY P.L.221-2005, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. If electronic voting systems are used in a precinct, the county election board may ~~request authorization from the state recount commission to~~ inspect the registering counter or other recording device on any electronic voting system showing the number of votes cast for any candidate or public question. ~~If authorized by the state recount commission,~~ The board may conduct an inspection either before it proceeds to count and tabulate the vote or within one (1) day after the count and tabulation are finished.

SECTION 37. IC 4-8.1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a) The individual elected as treasurer of state shall take office on January 1 following the individual's election.**

(b) The treasurer of state and ~~his~~ **the** deputy treasurers shall each give bond in an amount determined by the auditor of state and the governor. The bond shall be conditioned on the faithful performance of the duties as treasurer of state and deputy treasurer, respectively. The bond must be procured from a surety company authorized by law

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1 to transact business in this state.

2 SECTION 38. IC 5-10.2-1-8, AS AMENDED BY P.L.88-2005,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 8. (a) Except as provided in subsection (b),
5 "vested status" as used in this article means the status of having ten
6 (10) years of creditable service.

7 (b) In the case of a person who is an elected county official whose
8 governing body has provided for the county official's participation in
9 the public employees' retirement fund under IC 5-10.3-7-2(1), "vested
10 status" means the status of having:

11 (1) at least eight (8) years of creditable service as an elected
12 county official in an office described in IC 5-10.2-4-1.7;

13 (2) been elected at least two (2) times if the person would have
14 had at least eight (8) years of creditable service as an elected
15 county official in an office described in IC 5-10.2-4-1.7 had the
16 person's term of office not been shortened under a statute enacted
17 under Article 6, Section 2(b) of the Constitution of the State of
18 Indiana; or

19 (3) at least ten (10) years of creditable service as a member of the
20 fund based on a combination of service as an elected county
21 official and as a full-time employee in a covered position.

22 (c) In the case of a person whose term of office commences after the
23 election on November 5, 2002, as auditor of state, secretary of state, or
24 treasurer of state, and who is prohibited by Article 6, Section 1 of the
25 Constitution of the State of Indiana from serving in that office for more
26 than eight (8) years during any period of twelve (12) years, that person
27 shall be vested with at least eight (8) years of creditable service as a
28 member of the fund.

29 **(d) This subsection applies to an individual elected to the office**
30 **of treasurer of state at the election on November 7, 2006. The**
31 **individual shall be vested if the individual is reelected as treasurer**
32 **of state at the 2010 general election and serves in the office until**
33 **January 1, 2015.**

34 SECTION 39. IC 5-10.2-4-1.9 IS ADDED TO THE INDIANA
35 CODE AS A NEW SECTION TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2008]: Sec. 1.9. (a) **This section applies only**
37 **to a member of the public employees' retirement fund who:**

38 (1) **has served as a state officer listed in Article 6, Section 1 of**
39 **the Constitution of the State of Indiana; and**

40 (2) **whose term of office as a state officer commenced after the**
41 **election held on November 5, 2002.**

42 (b) **A member is eligible for normal retirement after becoming**

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sixty-five (65) years of age if the member:

(1) has:

(A) served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have served at least eight (8) years as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted to establish uniform dates for beginning the terms of state officers listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in IC 5-10.2-1-8(a)) and meets the requirements of section 1 of this chapter.

SECTION 40. IC 20-23-8-10, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A change in a plan may be initiated by one (1) of the following procedures:

(1) By filing a petition signed by at least ~~twenty ten~~ percent ~~(20%)~~ **(10%)** of the **active** voters **(as defined in IC 3-5-2-1.7)** of the school corporation with the clerk of the circuit court.

(2) By a resolution adopted by the governing body of the school corporation.

(3) By ordinance adopted by a city legislative body under section 13 of this chapter.

(b) A petition, resolution, or ordinance must set forth a description of the plan that conforms with section 7 of this chapter.

~~(c) Except as provided in subsection (a)(1), in a city having a population of more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000), a change in a plan may be initiated by filing a petition signed by ten percent (10%) or more of the voters of the school corporation with the clerk of the circuit court.~~

SECTION 41. IC 20-23-8-14, AS ADDED BY P.L.1-2005,

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SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
UPON PASSAGE]: Sec. 14. (a) Not more than ten (10) days after a
governing body has:

- (1) initiated;
- (2) approved; or
- (3) disapproved;

a plan initiated by the petition filed with it, the governing body shall
publish a notice one (1) time in a newspaper of general circulation in
the county of the school corporation. If a newspaper of general
circulation is not published in the county of the school corporation, the
governing body shall publish a notice one (1) time in a newspaper of
general circulation published in a county adjoining the county of the
school corporation.

(b) The notice must set out the text of a plan initiated by the
governing body or another plan filed with the governing body before
the preparation of the notice. The notice must also state the right of a
voter, as provided in this section, to file a petition for alternative plans
or a petition protesting the adoption of a plan or plans to which the
notice relates.

(c) If the governing body fails to publish a notice required by this
section, the governing body shall, not more than five (5) days after the
expiration of the ten (10) day period for publication of notice under this
section, submit the petition that has been filed with the clerk to the
state board, whether or not the plan contained in the petition or the
petition meets the requirements of this chapter.

(d) Not later than one hundred twenty (120) days after the
publication of the notice, voters of the school corporation may file with
the clerk a petition protesting a plan initiated or approved by the
governing body or a petition submitting an alternative plan as follows:

- (1) A petition protesting a plan ~~shall~~ **must** be signed by at least
~~twenty ten~~ **ten** percent ~~(20%)~~ **(10%)** of the **active** voters **(as defined**
in IC 3-5-2-1.7) of the school corporation or five hundred (500)
voters of the school corporation, whichever is less.
- (2) A petition submitting an alternative plan ~~shall~~ **must** be signed
by at least ~~twenty ten~~ **ten** percent ~~(20%)~~ **(10%)** of the **active** voters
(as defined in IC 3-5-2-1.7) of the school corporation.

A petition filed under this subsection shall be certified by the clerk and
shall be filed with the governing body in the same manner as is
provided for a petition in section 11 of this chapter.

(e) The governing body or the voters may not initiate or file
additional plans until the plans that were published in the notice or
submitted as alternative plans not later than one hundred twenty (120)

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1 days after the publication of the notice have been disposed of by:
2 (1) adoption;
3 (2) defeat at a special election held under section 16 of this
4 chapter; or
5 (3) combination with another plan by the state board under
6 section 15 of this chapter.
7 SECTION 42. THE FOLLOWING ARE REPEALED [EFFECTIVE
8 UPON PASSAGE]: IC 3-12-1-13; IC 3-14-2-29.
9 SECTION 43. THE FOLLOWING ARE REPEALED [EFFECTIVE
10 JULY 1, 2008]: IC 3-11-10-35; IC 3-11.7-5-5.
11 SECTION 44. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1196, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 2. IC 3-5-2-40.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 40.6. "Provisional ballot" refers to a ballot cast in accordance with the provisions of IC 3-11.7. **The term includes an absentee ballot required to be treated as a provisional ballot under this title.**"

Page 2, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 4. IC 3-7-12-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. **(a) Subject to subsection (c),** a board of registration may employ all necessary assistants.

(b) The number of employees shall be divided equally between the major political parties of the county.

(c) A person who is:

- (1) on probation;**
- (2) on parole;**
- (3) subject to home detention under IC 35-38-2.5;**
- (4) placed in a community corrections program under IC 35-38-2.6;**
- (5) in a community transition program under IC 11-10-11.5;**
- (6) participating in a postconviction forensic diversion program under IC 11-12-3.7;**
- (7) being supervised by a reentry court;**
- (8) serving a sentence in a minimum security assignment under IC 35-38-3-6; or**
- (9) serving an intermittent sentence;**

may not be an employee of, or otherwise perform work for, a board of registration."

Page 12, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 16. IC 3-11-10-17, AS AMENDED BY P.L.198-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. **(a) If the inspector finds under section 15 of this chapter that any of the following applies, ~~a~~ the inspector shall direct that the absentee ballot may not be accepted or counted; processed as a provisional ballot under IC 3-11.7:**

- (1) The affidavit is insufficient or the ballot has not been endorsed with the initials of:**

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- (A) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or section 27 of this chapter;
- (B) the two (2) members of the absentee voter board visiting the voter under section 25(b) of the chapter; or
- (C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
- (2) A copy of the voter's signature has been furnished to the precinct election board and that the signatures do not correspond or there is no signature.
- (3) The absentee voter is not a qualified voter in the precinct.
- (4) The absentee voter has voted in person at the election.
- (5) The absentee voter has not registered.
- (6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax or electronic mail under IC 3-11-4-6 to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax or electronic mail.
- (7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.
- (8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.
- (9) The ballot has been challenged and not supported.
- (b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:
 - (1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or
 - (2) on an absentee ballot secrecy envelope that corresponds with the voter's signature:
 - (A) in the records of the county voter registration office; or
 - (B) on the absentee ballot application.
- (c) The voter may request that the voter's signature or mark be attested to by:
 - (1) the absentee voter board under section 25(b) of this chapter;
 - (2) a member of the voter's household; or
 - (3) an individual serving as attorney in fact for the voter.
- (d) An attestation under subsection (c) provides an adequate basis for an inspector to determine that a signature or mark complies with

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subsection (a)(2).

SECTION 17. IC 3-11-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. ~~Each~~ **(a) An absentee** ballot not accepted or counted for any of the reasons prescribed by section 17 of this chapter shall, without being unfolded to disclose how it is marked, be **replaced in the absentee ballot envelope in which the ballot was contained. The absentee ballot envelope shall be securely sealed and** endorsed with the words: "Rejected (giving the reason or reasons therefor)"; **for the rejection)".**

(b) All rejected absentee ballots shall be enclosed and securely sealed in an envelope on which the inspector shall write the words: **"Defective "Absentee ballots to be processed as provisional ballots".** The inspector shall also identify the precinct and the date of the election on the envelope containing the rejected ballots. ~~The defective absentee ballots shall be returned to the same officer and in the same manner as prescribed by this title for the return and preservation of official ballots cast and uncast at the election:".~~

Page 17, between lines 12 and 13, begin a new paragraph and insert: "SECTION 21. IC 3-11-10-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 34. If ~~an envelope containing an absentee ballot has been marked "Rejected as defective"~~ **rejected under section 17 of this chapter** and the voter appears in person at the precinct before the polls close, the voter may vote as any other voter voting in person. **A notation shall be made on the absentee ballot envelope of the rejected absentee ballot that the voter appeared at the polls."**

Page 17, delete lines 13 through 33, begin a new paragraph and insert:

"SECTION 22. IC 3-11.5-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. To the extent that they are in conflict with this article, the following statutes do not apply to a county that has adopted a resolution described by section 1 of this chapter:

- (1) IC 3-11-4-22.
- (2) IC 3-11-10-1.5.
- (3) IC 3-11-10-3.
- (4) IC 3-11-10-5.
- (5) IC 3-11-10-6.
- (6) IC 3-11-10-7.
- (7) IC 3-11-10-8.
- (8) IC 3-11-10-9.
- (9) IC 3-11-10-11.



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- (10) IC 3-11-10-12.
- (11) IC 3-11-10-13.
- (12) IC 3-11-10-14.
- (13) IC 3-11-10-15.
- (14) IC 3-11-10-16.
- (15) IC 3-11-10-17.
- (16) IC 3-11-10-18.
- (17) IC 3-11-10-20.
- (18) IC 3-11-10-21.
- (19) IC 3-11-10-22.
- (20) IC 3-11-10-23.
- (21) IC 3-11-10-31.
- (22) IC 3-11-10-32.
- (23) IC 3-11-10-33.
- (24) IC 3-11-10-34.
- ~~(25) IC 3-11-10-35.~~
- ~~(26)~~ (25) IC 3-11-10-36.
- ~~(27)~~ (26) IC 3-11-10-37.
- ~~(28)~~ (27) IC 3-12-2.
- ~~(29)~~ (28) IC 3-12-3-12."

Page 18, between lines 9 and 10, begin a new paragraph and insert:
 "SECTION 25. IC 3-11.5-4-13, AS AMENDED BY P.L.198-2005,
 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2008]: Sec. 13. (a) If the absentee ballot counters find under
 section 11 of this chapter that any of the following applies, the ballots
 shall be ~~rejected~~: **processed as provisional ballots under IC 3-11.7:**

- (1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:
 - (A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;
 - (B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
 - (C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
- (2) The signatures do not correspond or there is no signature.
- (3) The absentee voter is not a qualified voter in the precinct.
- (4) The absentee voter has voted in person at the election.
- (5) The absentee voter has not registered.
- (6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax or electronic mail under IC 3-11-4-6 to be rejected because the

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ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax or electronic mail.

(7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot security envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by any of the following:

(1) The absentee voter board under section 22 of this chapter.

(2) A member of the voter's household.

(3) An individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for the absentee ballot counters to determine that a signature or mark complies with subsection (a)(2).

(e) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

(f) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 26. IC 3-11.5-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) **Each An absentee** ballot rejected for any of the reasons prescribed by section 13 of this chapter shall, without being unfolded to disclose how the ballot is marked, be **replaced in the absentee ballot envelope in which the ballot was contained. The absentee ballot envelope shall be securely**

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sealed and endorsed with the words: "Rejected (giving the reason or reasons for the rejection)".

(b) All rejected absentee ballots shall be enclosed and securely sealed in an envelope on which the absentee ballot counters shall write the words: **"Rejected" Absentee ballots to be processed as provisional ballots**". The absentee ballot counters shall also identify the precinct and the date of the election on the envelope containing the rejected ballots.

(c) ~~The rejected absentee ballots shall be returned to the same officer and in the same manner as prescribed by this title for the return and preservation of official ballots cast and uncast at the election.~~

SECTION 27. IC 3-11.5-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. If ~~an envelope containing~~ an absentee ballot has been ~~marked "Rejected"~~ **rejected under section 14 of this chapter** and the voter appears in person at the precinct before the polls close, the voter may vote as any other voter voting in person if the voter presents the precinct election board with the certificate issued under section 13(c) of this chapter. **A notation shall be made on the absentee ballot envelope of the rejected absentee ballot that the voter appeared at the polls.**

SECTION 28. IC 3-11.7-2-1, AS AMENDED BY P.L.164-2006, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) ~~As provided by 42 U.S.C. 15482,~~ This section applies to the following individuals:

(1) An individual:

- (A) whose name does not appear on the registration list; and
- (B) who is challenged under IC 3-10-1 or IC 3-11-8 after the voter makes an oral or a written affirmation under IC 3-7-48-5 or IC 3-7-48-7 or after the voter produces a certificate of error under IC 3-7-48-1.

(2) An individual described by IC 3-10-1-10.5, IC 3-11-8-23.5, or IC 3-11-8-27.5 who is challenged as not eligible to vote.

(3) An individual who seeks to vote in an election as a result of a court order (or any other order) extending the time established for closing the polls under IC 3-11-8-8.

(4) An individual whose absentee ballot has been rejected under IC 3-11-10-17 or IC 3-11.5-4-13.

(b) As required by 42 U.S.C. 15483, a voter who has registered to vote but has not:

- (1) presented identification required under 42 U.S.C. 15483 to the poll clerk before voting in person under IC 3-11-8-25.1; or
- (2) filed a copy of the identification required under 42 U.S.C.

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15483 to the county voter registration office before the voter's absentee ballot is cast;
is entitled to vote a provisional ballot under this article.

(c) A precinct election officer shall inform an individual described by subsection (a)(1) or (a)(2) that the individual may cast a provisional ballot if the individual:

- (1) is eligible to vote under IC 3-7-13-1;
- (2) submitted a voter registration application during the registration period described by IC 3-7-13-10 (or IC 3-7-36-11, if the voter registered under that section); and
- (3) executes an affidavit described in IC 3-10-1-9 or IC 3-11-8-23.

(d) A precinct election officer shall inform an individual described by subsection (a)(3) that the individual may cast a provisional ballot.

(e) An absentee ballot rejected under IC 3-11-10-17 or IC 3-11.5-4-13 shall be treated as a provisional ballot under this article. The county election board shall send a notice to the voter at the address indicated on the voter's absentee ballot application giving the following information:

- (1) That the voter's absentee ballot was rejected.**
- (2) The reasons for rejection of the voter's absentee ballot.**
- (3) That the voter's absentee ballot will be treated as a provisional ballot.**
- (4) That the county election board will have a meeting to determine whether provisional ballots shall be counted.**
- (5) The date, time, and place of the meeting described in subdivision (4).**
- (6) That the voter will be given an opportunity to support the validity of the absentee ballot.**
- (7) That the county election board may limit the voter's presentation. The county election board must grant a voter at least five (5) minutes to make a presentation.**

SECTION 29. IC 3-11.7-5-1, AS AMENDED BY P.L.164-2006, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) Notwithstanding IC 3-5-4-1.5 and any legal holiday observed under IC 1-1-9, all provisional ballots must be counted by not later than noon ten (10) days following the election.

(c) The county election board shall meet before noon on the date described in subsection (b) to do the following:

- (1) Provide voters who have cast provisional ballots an opportunity to make a presentation in support of the validity**

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of the provisional ballot.

(2) Determine which provisional ballots shall be counted.

SECTION 30. IC 3-11.7-5-2, AS AMENDED BY P.L.103-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) ~~Except as provided in section 5 of this chapter,~~ If the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

(1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.

(2) The provisional voter is a qualified voter of the precinct and has provided proof of identification, if required, under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26.

(3) Based on all the information available to the county election board, including:

(A) information provided by the provisional voter;

(B) information contained in the county's voter registration records; and

(C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board shall promptly make an inquiry to the agency regarding the alleged registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot **unless:**

(1) the voter appears at the meeting held under section 1 of this chapter; and

(2) the board determines, based on the voter's presentation, that the voter was validly registered.

If the board determines that the voter was not properly registered, the board shall endorse the ballot with the word "Rejected" and document on the ballot the inquiry and response, if any, by the agency.

(c) ~~Except as provided in section 5 of this chapter,~~ A provisional ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be counted if the county election board determines under this article that the voter filed the documentation required under IC 3-7-33-4.5 and 42

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U.S.C. 15483 with the county voter registration office not later than the closing of the polls on election day."

Page 18, delete lines 10 through 42, begin a new paragraph and insert:

"SECTION 31. IC 3-11.7-5-2.5, AS ADDED BY P.L.103-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.5. (a) A voter who:

- (1) was challenged under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26 as a result of the voter's inability or declination to provide proof of identification; and
- (2) cast a provisional ballot;

may personally appear ~~before the circuit court clerk or the~~ **at the** county election board ~~not later than the deadline specified by~~ **held under** section 1 of this chapter for the county election board to determine whether to count a provisional ballot. **The voter may also appear before the circuit court clerk before the county election board meeting to provide proof of identification and execute the affidavit as required under subsection (b).**

(b) Except as provided in subsection (c), ~~or (c);~~ if the voter:

- (1) provides proof of identification to the circuit court clerk or county election board; and
- (2) executes an affidavit before the clerk or board, in the form prescribed by the commission, affirming under the penalties of perjury that the voter is the same individual who:

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day;

the county election board shall find that the voter's provisional ballot is valid and direct that the provisional ballot be opened under section 4 of this chapter and processed in accordance with this chapter.

~~(c) If the voter executes an affidavit before the circuit court clerk or county election board, in the form prescribed by the commission, affirming under the penalties of perjury that:~~

~~(1) the voter is the same individual who:~~

~~(A) personally appeared before the precinct election board; and~~

~~(B) cast the provisional ballot on election day; and~~

~~(2) the voter:~~

~~(A) is:~~

~~(i) indigent; and~~

~~(ii) unable to obtain proof of identification without the payment of a fee; or~~

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(B) has a religious objection to being photographed; the county election board shall determine whether the voter has been challenged for any reason other than the voter's inability or declination to present proof of identification to the precinct election board:

(d) If the county election board determines that the voter described in subsection (c) has been challenged solely for the inability or declination of the voter to provide proof of identification, the county election board shall:

(1) find that the voter's provisional ballot is valid; and

(2) direct that the provisional ballot be:

(A) opened under section 4 of this chapter; and

(B) processed in accordance with this chapter.

(e) (c) If the county election board determines that a voter described in subsection (b) or (c) has been challenged for a cause other than the voter's inability or declination to provide proof of identification, the board shall:

(1) note on the envelope containing the provisional ballot that the voter has complied with the proof of identification requirement; and

(2) proceed to determine the validity of the remaining challenges set forth in the challenge affidavit before ruling on the validity of the voter's provisional ballot.

(f) (d) If a voter described by subsection (a) fails by the deadline for counting provisional ballots referenced in subsection (a) described in section 1 of this chapter to:

(1) appear before the county election board or the circuit court clerk; and

(2) execute an affidavit in the manner prescribed by subsection (b); or (c);

the county election board shall find that the voter's provisional ballot is invalid.

SECTION 32. IC 3-11.7-5-3, AS AMENDED BY P.L.103-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) **This section applies** if the board determines **any of the following**:

(1) That the affidavit executed by the provisional voter has not been properly executed.

(2) That the provisional voter is not a qualified voter of the precinct.

(3) That the **provisional** voter failed to provide proof of identification when required under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26. or

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(4) That the provisional voter did not register to vote at a registration agency under this article on a date within the registration period.

(5) That the provisional voter's absentee ballot is not entitled to be counted under this title.

(b) The board shall make the following findings:

- (1) The provisional ballot is invalid.
- (2) The provisional ballot may not be counted.
- (3) The provisional ballot envelope containing the ballots cast by the provisional voter may not be opened.

~~(b)~~ (c) If the county election board determines that a provisional ballot is invalid, a notation shall be made on the provisional ballot envelope: "Provisional ballot determined invalid".

SECTION 33. IC 3-11.7-5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. As soon as the ballots have been counted, the counters shall do the following in the presence of the county election board:

- (1) Place in a strong paper envelope or bag the following:
 - (A) All provisional ballots, voted and spoiled.
 - (B) All provisional ballots
 - ~~(i) determined invalid under section 3 of this chapter. or~~
 - ~~(ii) rejected under section 5 of this chapter.~~
 - (C) All protested and uncounted provisional ballots.
 - (D) All provisional ballot envelopes.
 - (E) All executed affidavits relating to the provisional ballots.
 - (F) The tally papers.
- (2) Securely seal the envelope or bag.
- (3) Have both counters initial the envelope or bag.
- (4) Plainly mark on the outside of the envelope or bag in ink the precinct in which the provisional ballots were cast.
- (5) Deliver the envelope or bag to the circuit court clerk.
- (6) Notify the circuit court clerk of the number of ballots placed in the envelope or bag."

Page 19, delete lines 1 through 31.

Page 19, line 36, delete "December" and insert "**January**".

Page 19, line 36, delete "of" and insert "**following**".

Page 19, line 38, delete "during" and insert "**for**".

Page 20, line 37, strike "Except as provided in section 13 of this chapter,".

Page 20, line 37, delete "a" and insert "A".

Page 24, between lines 32 and 33, begin a new paragraph and insert:
"SECTION 43. THE FOLLOWING ARE REPEALED

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[EFFECTIVE JULY 1, 2008]: IC 3-11-10-35; IC 3-11.7-5-5.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1196 as introduced.)

PIERCE, Chair

Committee Vote: yeas 9, nays 0.

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